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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/618,566	07/10/2003	David G. Luenberger	LUB-101	3757	
	30869 7590 03/17/2008 LUMEN PATENT FIRM, INC.			EXAMINER	
2345 YALE STREET			WONG, ERIC TAK WAI		
SECOND FLOOR PALO ALTO, CA 94306			ART UNIT	PAPER NUMBER	
			3693		
			MAIL DATE	DELIVERY MODE	
			03/17/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)				
Office Action Summary		10/618,566	LUENBERGER, DAVID G.				
		Examiner	Art Unit				
		ERIC WONG	3693				
Period fo	The MAILING DATE of this communication ap r Reply	ppears on the cover sheet with the	correspondence address				
WHIC - Exter after - If NO - Failui Any r	DRTENED STATUTORY PERIOD FOR REPI HEVER IS LONGER, FROM THE MAILING I sions of time may be available under the provisions of 37 CFR 1 SIX (6) MONTHS from the mailing date of this communication. period for reply is specified above, the maximum statutory period e to reply within the set or extended period for reply will, by statu eply received by the Office later than three months after the mailing dipatent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATIO .136(a). In no event, however, may a reply be tid d will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONE	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).				
Status							
1) 又	Responsive to communication(s) filed on 10.	July 2003					
-		is action is non-final.					
′ —	<i>;</i> —						
٥,١	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Dispositi	on of Claims	•					
·	Claim(s) <u>1-26</u> is/are pending in the applicatio	n					
•	4a) Of the above claim(s) is/are withdrawn from consideration.						
	5) Claim(s) is/are allowed.						
•	6) Claim(s) is/are rejected.						
	Claim(s) is/are rejected. Claim(s) is/are objected to.						
-	Claim(s) <u>1-26</u> are subject to restriction and/or	r election requirement					
·		discillor requirement.					
Applicati	on Papers						
•	The specification is objected to by the Examir						
10) 🔲	10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
	Applicant may not request that any objection to the	e drawing(s) be held in abeyance. Se	e 37 CFR 1.85(a).				
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) 🔲	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority u	nder 35 U.S.C. § 119						
a)[Acknowledgment is made of a claim for foreig All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the pri- application from the International Burea see the attached detailed Office action for a list	nts have been received. nts have been received in Applicat ority documents have been receiv au (PCT Rule 17.2(a)).	ion No ed in this National Stage				
2) Notic 3) Inforr	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO/SB/08) 'No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal I 6) Other:	ate				

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DETAILED ACTION

1. Claims 1-26 are pending.

Specification

2. The abstract of the disclosure is objected to because it contains figure references. Correction is required. See MPEP § 608.01(b).

Election/Restrictions

- 3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-20, drawn to calculating a price of a financial derivative using an equation involving a price of the financial derivative defined as a function of a non-marketed variable and time, classified in class 705, subclass 36R.
 - II. Claim 21-26, drawn to calculating a price of a financial derivative using a binomial lattice model, classified in class 705, subclass 36R.

The inventions are independent or distinct, each from the other because:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as calculating risk-neutral probabilities using a binomial lattice model. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the

present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above <u>and</u> there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be

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considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

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Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. A telephone call was made to Ron Jacobs on 3/12/2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to ERIC WONG whose telephone number is (571)270-3405. The examiner

can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

would like assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

Eric Wong Examiner Art Unit 3693

MAR 2008